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HEHMEYER**
—◆—
TRIAL LAWYERS

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July 20, 2018

VIA ELECTRONIC CASE FILING (“ECF”):

The Honorable Leda D. Wettre
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Room 4015
Newark, NJ 07101

RE: Trzaska v. L’Oréal USA, Inc., *et al.*
C.A. No.: 2:15-cv-02713-SDM (N.J./ Newark Vic.)

Dear Judge Wettre:

As counsel for plaintiff Trzaska, we write to provide Your Honor, as requested, with a report on the current status of this litigation.

First, written discovery requests were served by the parties on May 24th (by plaintiff) and May 25th (by defendants). Shortly before the defendants’ responses were due, defense counsel requested a 30-day extension to which we agreed. This then included a corresponding extension for plaintiff. In agreeing, we asked defense counsel to serve us with any objections to our requests before the new due date so they could be flushed out as soon as possible. To date, however, we have not received any response to our request nor any objections to our discovery. For our part, we are prepared to answer and provide relevant responsive documents to the defendants’ discovery by next Wednesday’s agreed-upon due date.

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Second, on June 26th we e-mailed counsel for L'Oréal, S.A. and asked him to make available three of his Paris-based clients for deposition here in the United States in either September or October. For a number of years, these three witnesses -- Jean-François Pahin, Denis Bôulard and Laurent Attal -- have traveled to L'Oréal's New York City and Clark, New Jersey offices as part of their semi-annual business trips to the States. Until yesterday, we had not received a reply to our request despite our follow up inquiries. In an e-mail yesterday, Mr. Savage responded by saying none of these witnesses would be in the United States in September or October.

Third, earlier this week, we served defense counsel with a subpoena *duces tecum* scheduling the deposition of Patricia Rocha, a former L'Oréal, USA patent lawyer, for August 14, 2018. In response, counsel for L'Oréal USA asked us to agree to defer her deposition until the defendants first took Mr. Trzaska's deposition. Because the Federal Rules abjure any particular sequence in the taking of discovery, F.R.Civ.P. 26(d)(3)(A), *see also*, Seavey v. Globus Medical, Inc., 2012 WL 12902792, at *1 (D.N.J. Dec. 14, 2012) ("The Federal Rules permit parties to use methods of discovery in any sequence"), and because there is no practical reason for deferring Ms. Rocha's deposition, we declined that request.

Finally, at this point, the parties have not engaged one another in any discussions aimed at an amicable resolution of this case.

For plaintiff Trzaska, we look forward to moving this lawsuit to conclusion and are hopeful that, by working together, the parties can do so.

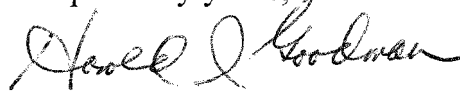
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Thank you for considering our comments.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Harold I. Goodman". The signature is fluid and cursive, with the first name "Harold" and last name "Goodman" clearly distinguishable.

Harold I. Goodman

HIG/rcm

cc: Rosemary Alito, Esquire (Via E-mail: rosemary.alito@klgates.com)
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